

In The Matter Of:

*Stephen Keefe v.
Local 805, ILA, AFL-CIO, et al.*

*Paul F. McGaffigan
Vol. 1, May 9, 2006*

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50 Franklin Street
Boston, MA 02110
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*Original File MCGAFF-1.VI, 19 Pages
Min-U-Script® File ID: 3507193547*

Word Index included with this Min-U-Script®

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Volume 1
Pages 1 to 19
Exhibits (None)
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
STEPHEN KEEFFE, :
Plaintiff, :
vs. : Civil Action
: No. 04-11340-DPW
LOCAL 805, INTERNATIONAL :
LONGSHOREMEN'S ASSOCIATION, :
AFL-CIO; LOCAL 800, :
INTERNATIONAL LONGSHOREMEN'S :
ASSOCIATION, AFL-CIO; and :
LOCAL 799, INTERNATIONAL :
LONGSHOREMEN'S ASSOCIATION, :
AFL-CIO, :
Defendants. :

DEPOSITION OF PAUL F. MCGAFFIGAN a witness
called on behalf of the Plaintiff, taken pursuant to
the Federal Rules of Civil Procedure, before Valorie
L. Shand-Salama, Professional Shorthand Reporter and
Notary Public in and for the Commonwealth of
Massachusetts, at the Offices of Mullen & McGourty,
52 Temple Place, Fourth Floor, Boston,
Massachusetts, on Tuesday, May 9, 2006, commencing
at 12:10 p.m.

PRESENT:

Scott A. Lathrop & Associates
(By Scott A. Lathrop, Esq.)
122 Old Ayer Road, Groton, MA 01450,
for the Plaintiff,
Mullen & McGourty
(By Michael L. Mahoney, Esq.)
52 Temple Place, Fourth Floor,
Boston, MA 02111, for the Defendants.

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PRESENT (Continued):
Law Offices of Barnicle, McNelley & Nugent
(By Edward J. McNelley, Esq.)
101 Tremont Street, Suite 700,
Boston, MA 02108, for the Deponent.
ALSO PRESENT: Stephen Keeffe

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WITNESS DIRECT CROSS
PAUL F. MCGAFFIGAN
BY MR. LATHROP 4

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PROCEEDINGS

[1] MR. LATHROP: Same deposition stipulations?
[2] MR. McNELLEY: Yup.
[3] And also the documents that you had
[4] subpoenaed for us to bring to the court, namely,
[5] five years of income tax returns; that you've had a
[6] chance to examine them; that you found that all W-2
[7] reported income is income derived from his work as a
[8] Boston longshoreman; and that there is no other
[9] outside income reported on a W-2. And I believe you
[10] have an issue on a pension on a 1099.
[11] And we'll let the record reflect that they
[12] conform to the subpoena that was issued.
[13] MR. LATHROP: The records conform to the
[14] subpoena, yes.
[15] PAUL F. MCGAFFIGAN
[16] a witness called for examination by counsel for the
[17] Plaintiff, having been satisfactorily identified by
[18] the production of his driver's license and being
[19] first duly sworn by the Notary Public, was examined
[20] and testified as follows:
[21]

DIRECT EXAMINATION

BY MR. LATHROP:

[22] Q: Would you please state your full name and

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[1] address.
[2] MR. McNELLEY: And we stipulate that all
[3] his W-2 income on here is derived from his work as a
[4] longshoreman.
[5] MR. LATHROP: Actually, I saw no W-2s, per
[6] SC.
[7] MR. McNELLEY: Well, the Federal reporting
[8] ID numbers draw longshoreman-derived income.
[9] MR. LATHROP: They appear to be, yes.
[10] MR. McNELLEY: Well, then, why don't we go
[11] over them, and we can go over them one by one. I
[12] mean, we've had a chance to examine them. Either
[13] they do or they don't.
[14] MR. LATHROP: But you're asking for a
[15] stipulation.
[16] MR. McNELLEY: I am asking for a
[17] stipulation because I provided you the documents.
[18] MR. LATHROP: Yeah —
[19] MR. McNELLEY: It shows you where the
[20] income came —
[21] MR. LATHROP: — and I'm not going to ask
[22] any questions about them.
[23] MR. McNELLEY: Well, I mean, are you
[24] satisfied that that's where the income comes from?

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(1) Here are the documents. We can go over them again.
(2) MR. LATHROP: I'm not going to go through
(3) my trial strategy with you.
(4) MR. McNELLEY: All I'm asking you is a very
(5) simple question.
(6) MR. LATHROP: I understand that.
(7) MR. McNELLEY: But I don't think you do.
(8) MR. LATHROP: If we want to get out of here
(9) yet today, I would like to get forward with the
(10) deposition.
(11) MR. McNELLEY: And you can go forward with
(12) the deposition —
(13) MR. LATHROP: Thank you.
(14) MR. McNELLEY: — when we resolve the
(15) matter.
(16) MR. LATHROP: No, we don't have to resolve
(17) the matter.
(18) MR. McNELLEY: Oh, yes, we most certainly
(19) do have to resolve the matter.
(20) MR. LATHROP: No, we don't have to.
(21) MR. McNELLEY: Now, I mean, I gave you the
(22) W-2s — the income tax returns.
(23) MR. LATHROP: I looked at the income tax
(24) returns, yes.

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(1) MR. McNELLEY: Fine. Then, that's all you
(2) have to say is that's what it is, and we'll move on.
(3) MR. LATHROP: They are what they are, and
(4) you gave them to me, and I'm not going to ask any
(5) questions about them.
(6) MR. McNELLEY: So you are satisfied.
(7) MR. LATHROP: I'm satisfied that he's fully
(8) responded to the subpoena.
(9) BY MR. LATHROP:
(10) Q: Would you please state your full name and
(11) address for the record, sir.
(12) MR. McNELLEY: I just want to object for
(13) the record. You had a chance to examine the
(14) documents. You're being nonresponsive. You've seen
(15) it. We've sat down. We've talked about it.
(16) But go ahead and move on.
(17) MR. LATHROP: Thank you.
(18) Q: Would you please state your full name and
(19) address for the record, sir.
(20) A: Paul F. McGaffigan.
(21) Q: What's your date of birth?
(22) A: 6/12/42.
(23) Q: I think I cut you off before you gave your
(24) address. What's your address?

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(1) A: 42 Harvard Street, Charlestown,
(2) Massachusetts.
(3) Q: Okay. Are you currently receiving a
(4) pension?
(5) A: Yes.
(6) Q: And from whom?
(7) A: Norfolk County.
(8) Q: Okay. And did you retire from a position
(9) in the Norfolk County?
(10) A: Yes, I did.
(11) Q: What position did you retire from?
(12) A: Firefighter.
(13) Q: And when did you retire as a firefighter?
(14) A: February 1, 1996.
(15) Q: Are you currently —
(16) A: Excuse me. '97.
(17) Q: Are you currently a longshoreman?
(18) A: Yes, I am.
(19) Q: When you did you first become a
(20) longshoreman?
(21) A: 1964.
(22) Q: And was there a period of time when you
(23) were both a firefighter and a longshoreman?
(24) A: No. I was casually employed — not a

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(1) full-time longshoreman, no.
(2) Q: For what period of time were you casually
(3) employed as a longshoreman?
(4) A: 20 years.
(5) Q: What 20-year period?
(6) A: 1976 to 1996.
(7) Q: Were you in a gang during that period of
(8) time?
(9) A: No, I was not.
(10) Q: Did your status change sometime after 1996?
(11) A: Yes, I did, I retired.
(12) Q: Okay. You retired as a firefighter?
(13) A: Yes, I did.
(14) Q: And did you continue to work as a
(15) longshoreman?
(16) A: After my retirement, yes.
(17) Q: And did that change in any regard?
(18) A: I don't understand the question.
(19) Q: You said you were a casual through 1996.
(20) A: Uh-huh.
(21) Q: Did you continue to work as a casual after
(22) 1996?
(23) A: No. I was employed in a gang because I did
(24) not have any other income or job.

[1] Q: Okay. And are you still working as a
[2] longshoreman?
[3] A: Yes, I am.
[4] Q: What gang are you in now?
[5] A: Gang No. 7.
[6] Q: Have you ever served on the Rules
[7] Committee?
[8] A: Yes, I did.
[9] Q: All right. I should ask you first, what
[10] local were you a member of?
[11] A: Local 805.
[12] Q: How is it that you happen to be a member of
[13] 805 as opposed to 800 or 799?
[14] A: Because my father was a member of 805.
[15] Q: Were you elected by Local 805 to serve on
[16] the Rules Committee?
[17] A: Yes, sir.
[18] Q: When were you first so elected?
[19] A: January 1, 2002.
[20] Q: Are you still on the Rules Committee?
[21] A: Yes.
[22] Q: Have you served continuously on the Rules
[23] Committee since January 1, 2002?
[24] A: Yes.

[1] Q: Okay. Anyone else during your tenure?
[2] A: No.
[3] Q: Were you present at any Rules Committee
[4] meetings where Mr. Keefe's situation was described?
[5] A: What description?
[6] Q: Let me rephrase that.
[7] Did you attend any Rules Committee meeting
[8] during which a possible suspension of Mr. Keefe was
[9] discussed?
[10] A: I don't recall.
[11] Q: Were you present at any Rules Committee
[12] meeting at which Mr. Keefe appeared with regard to
[13] the topic of his possible suspension?
[14] A: Yes.
[15] Q: Do you recall anything that was said or
[16] done during that meeting?
[17] A: He was in violation of the rule — I don't
[18] know which number.
[19] THE WITNESS: What is it, third something?
[20] A: I don't know which number, but working
[21] another job.
[22] Q: Do you recall what was said during this
[23] meeting?
[24] A: No.

[1] Q: During your tenure on the Rules Committee,
[2] are you aware of any longshoremen who have been
[3] suspended for violating the Rule 36, the "work
[4] exclusively at the craft" rule?
[5] A: Yes.
[6] Q: Who are you aware of that's been suspended?
[7] A: I believe the names are somewhere here on
[8] record, I can't recall all of them.
[9] Q: Can you recall any of them?
[10] A: Oh, there was a John McLaughlin, a Patrick
[11] Considine, Daniel Considine, Michael McEvoy. Let me
[12] think, Daniel O'Brien.
[13] Q: These are all during your tenure?
[14] A: No.
[15] Q: Okay. Let's focus. I'm asking about
[16] during your tenure on the Rules Committee.
[17] A: Oh, just Stephen Keefe.
[18] Q: During your tenure on the Rules Committee,
[19] was anyone lowered from a gang down to Gang 12 for a
[20] violation of the "work exclusively at the craft"
[21] rule?
[22] A: Yes.
[23] Q: Who?
[24] A: Stephen Keefe.

111 Q: Do you recall the employer for whom
112 Mr. Keefe reportedly was working?
113 A: John T. Clark & Son, yes.
114 Q: Did you understand that to be a family
115 business?
116 A: Yes.
117 Q: Did you understand that to be a company
118 that was owned by Mr. Keefe's brother?
119 A: I don't know exactly who owned it.
120 Q: Was there any discussion about it being a
121 no-show job?
122 A: No.
123 Q: You don't recall that?
124 A: Nope.
125 Q: What do you recall being discussed about
126 that position?
127 A: That he had another job working for John T.
128 Clark, getting pension — excuse me — income and
129 vacations and holiday pay and health benefits.
130 Q: Who said this?
131 A: I believe it was on a deposition or a court
132 record. But I don't have — I saw it. It was
133 presented.
134 Q: Who presented the deposition?

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[1] A: I don't recall who presented it.
 [2] Q: So you're not testifying as to anything
 [3] Mr. Keefe said to the committee. You're talking
 [4] about something that purportedly was in a
 [5] deposition?
 [6] A: He was not at the meeting until later on.
 [7] Q: Okay. I'm sorry. My questions were
 [8] directed to the meeting which he attended. And I'm
 [9] asking you what you recall being said or done at
 [10] that meeting?
 [11] A: By Mr. Keefe?
 [12] Q: By anyone at the meeting which Mr. Keefe
 [13] attended.
 [14] A: I don't understand the question.
 [15] Q: Do you recall a meeting at which Mr. Keefe
 [16] attended a Rules Committee meeting?
 [17] A: Yes, he came before the Rules Committee.
 [18] Q: Okay. What do you recall being said or
 [19] done by anyone at that meeting, if anything?
 [20] A: He was working another job.
 [21] Q: And was that something said by someone?
 [22] A: It was said by everybody.
 [23] Q: Okay. What do you recall, if anything,
 [24] said by Mr. Keefe?

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[1] A: He said that he had another income, and he
 [2] wasn't working another job.
 [3] Q: Okay.
 [4] A: So we said he has another job.
 [5] Q: Okay. You have another income, don't you?
 [6] A: Yes.
 [7] Q: Okay. That doesn't — doesn't cause you —
 [8] A: I'm not working another job.
 [9] Q: Please let me finish the question, sir.
 [10] You have another income, do you not, sir?
 [11] A: Yes.
 [12] Q: And the fact that you have another income
 [13] doesn't disqualify you under the "work exclusively
 [14] at the craft" rule, correct?
 [15] A: No. Because it's in the rules that I can
 [16] be retired and work.
 [17] Q: It says that literally in the rule?
 [18] A: Uh-huh.
 [19] Q: You're certain of that?
 [20] A: I'm positive of it.
 [21] Q: Okay.
 [22] A: Could I see a copy of the rules just to
 [23] tell you which one it is?
 [24] Q: I'm showing you a copy of what was marked

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[1] as Exhibit 1 in Mr. Picard's deposition. I think
 [2] you could look directly at Rule 36.
 [3] A: (Reviewing document) Retirement. It says
 [4] right there, "notarized retirement papers."
 [5] Q: Okay. Now, what was your evidence that
 [6] Mr. Keefe was actually working at another job?
 [7] A: Because he had said it when he went to
 [8] court. He was working for John T. Clark.
 [9] Q: He said he was actually —
 [10] A: Yes.
 [11] Q: — putting in labor?
 [12] A: Employed by John T. Clark. And it shows
 [13] him — it shows his income on his 2003 Social
 [14] Security earnings that he's working for John T.
 [15] Clark.
 [16] Q: You were referencing a W-2 report?
 [17] A: Social Security income.
 [18] Q: Okay. Do you have any other evidence that,
 [19] in fact, he actually worked physically worked this
 [20] job?
 [21] A: No.
 [22] *Q: Is it — was it your position that anyone
 [23] who does any physical labor in order to gain an
 [24] income that wasn't in the field of being a

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[1] longshoreman violated Rule 36?
 [2] MR. MAHONEY: Objection to the form. You
 [3] can answer.
 [4] A: Can you repeat that?
 [5] MR. LATHROP: Would you read it back,
 [6] please.
 [7] *(Question read)
 [8] A: Yes.
 [9] MR. LATHROP: Nothing further. You're done
 [10] as far as I'm concerned.
 [11] MR. MAHONEY: I have no questions.
 [12] MR. McNELLEY: I have nothing.
 [13] (Whereupon, the deposition was
 [14] concluded at 12:25 p.m.)
 [15]
 [16]
 [17]
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 [20]
 [21]
 [22]
 [23]
 [24]